

DOCKET NO.: 241025US8



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Hiroyuki MANABE, et al.

SERIAL NO: 10/629,720

GROUP: 3736

FILED: July 30, 2003

EXAMINER:

FOR: ELECTRODE DEVICE

LETTER

Mail Stop DD
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith is a Chinese Office Action for the Examiner's consideration. The reference cited therein has been previously filed on May 19, 2004.

Respectfully Submitted,

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THE PATENT OFFICE OF THE PEOPLE'S REPUBLIC OF CHINA

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Applicant:	NTT DOCOMO, INC. (株式会社エヌ・テ イ・テイ・ドコモ)	Date of Notification: Date: <u>12</u> Month: <u>05</u> Year: <u>2006</u>
Attorney:	LI DESHAN	
Application No.:	03152386.2	
Title of the Invention:	ELECTRODE DEVICE	

Notification of Second Office Action

1. ☒ The examiner received the response submitted by the applicant on May. 8, 2005 to the 1st Office Action and further examination as to substance has been carried out on the above-identified patent application for invention on this new basis.
- ☐ According to the Reexamination Decision made by the Patent Reexamination Board of the Patent Office on _____ examination as to substance on the above-identified application has been resumed.
2. Further examination as to substance has been carried out based on the documents as specified below:
- ☐ The amended application documents attached to the response to the previous Office Action.
- ☐ The application documents based on which the previous examination was carried out and the substitution pages attached to the response to the previous Office Action.
- ☐ The application documents based on which previous examination was carried out.
- ☐ The application documents confirmed by the Reexamination Decision.
3. ☐ No further reference documents are cited in this Office Action.
- ☒ Below is/are the reference document(s) cited in this Notification:

No.	Number(s) or Title(s) of Reference(s)	Date of Publication (or the filing date of conflicting application)
1		Date: __ Month: __ Year: __
2	US6129666A Filed 5/19/04	Date: <u>10</u> Month: <u>10</u> Year: <u>2000</u>
3		Date: __ Month: __ Year: __
4		Date: __ Month: __ Year: __
5		Date: __ Month: __ Year: __

4. Conclusions of the Action:

- ☐ On the Specification:
- ☐ The amendments to the description do not comply with Article 33 of the Patent Law.
- ☐ The subject matter contained in the application is not patentable under Article 5 of the Patent Law.
- ☐ The description does not comply with Article 26 paragraph 3 of the Patent Law.
- ☐ The draft of the description does not comply with Rule 18 of the Implementing Regulations.

☒ On the Claims:

- ☐ The amendments to claims _____ do not comply with Article 33 of the Patent Law.
- ☐ Claim(s) _____ is/are not patentable under Article 25 of the Patent Law.
- ☐ Claim(s) _____ does/do not comply with the definition of inventions prescribed by Rule 2 paragraph 1 of the Implementing Regulations.
- ☐ Claim(s) _____ does/do not possess the novelty as required by Article 22 paragraph 2 of the Patent Law.
- ☒ Claim(s) 1-4 does/do not possess the inventiveness as required by Article 22 paragraph 3 of the Patent Law.
- ☐ Claim(s) _____ does/do not possess the practical applicability as required by Article 22 paragraph 4 of the Patent Law.
- ☐ Claim(s) _____ does/do not comply with Article 26 paragraph 4 of the Patent Law.
- ☐ Claim(s) _____ does/do not comply with Article 31 paragraph 1 of the Patent Law.
- ☐ Claim(s) _____ does/do not comply with the provisions of Rules 20-23 of the Implementing Regulations.
- ☐ Claim(s) _____ does/do not comply with Article 9 of the Patent Law.
- ☐ Claim(s) _____ does/do not comply with the provisions of Rule 12 paragraph 1 of the Implementing Regulations.

The detailed explanation of the above conclusions is set forth in the text portion of the Notification.

5. In view of the conclusions set forth above, the Examiner is of the opinion that:

- ☐ The applicant should make amendments to the application documents as directed in the text portion of the Notification.
- ☐ The applicant should expound in the response reasons why the application is patentable and make amendments to the application where there are deficiencies as pointed out in the text portion of the Notification, otherwise, the application will be rejected.
- ☒ The application contains no allowable invention, and therefore, if the applicant fails to submit sufficient reasons to prove that the application does have merits, it will be rejected.
- ☐

6. The followings should be taken into consideration by the applicant in making the response:

- (1) Under Article 37 of the Patent Law, the applicant should respond to the office action within 2 months counting from the date of receipt of the Notification. If, without any justified reason, the time limit is not met, the application shall be deemed to have been withdrawn.
- (2) Any amendments to the application should be in conformity with the provisions of Article 33 of the Patent Law. Substitution pages should be in duplicate and the format of the substitution should be in conformity with the relevant provision contained in "The Examination Guidelines".
- (3) The response to the Notification and/or revision of the application should be mailed to or handed over to the "Reception Division" of the Patent Office, and documents not mailed or handed over to the Reception Divisions have no legal effect.
- (4) Without an appointment, the applicant and/or his agent shall not interview with the Examiner in the Patent Office.

9. This Notification contains a text portion of 2 pages and the following attachments:

- ☒ 1 cited reference(s), totaling 11 pages. ☐

Examination Dept. 5 Examiner: ZHOU Dongli Seal of the Examination Department

中华人民共和国国家知识产权局

邮政编码: 100037

北京市阜成门外大街2号万通新世界广场8层
中国国际贸易促进委员会专利商标事务所
李德山

发文日期

申请号: 031523862



申请人: 株式会社 NTT 都科摩

031547

发明创造名称: 电极装置

第 2 次审查意见通知书

1. ☒ 审查员已收到申请人针对国家知识产权局专利局发出的第 1 次审查意见通知书于 2005 年 5 月 8 日提交的意见陈述书, 在此基础上审查员对上述专利申请继续进行实质审查。
☐ 根据国家知识产权局专利复审委员会于 年 月 日作出的复审决定, 审查员对上述专利申请继续实质审查。

2. ☐ 申请人于 年 月 日提交的修改文件, 不符合实施细则第 51 条第 3 款的规定, 不能被接受; 申请人应在本通知规定的期限内提交符合要求的修改文件, 否则视为未答复审查意见通知书, 申请将被视为撤回。

3. 继续审查是针对下述申请文件进行的:

- ☐ 上述意见陈述书中所附的经修改的申请文件。
☒ 前次审查意见通知书所针对的申请文件以及上述意见陈述书中所附的经修改的申请文件替换页。
☐ 前次审查意见通知书所针对的申请文件。
☐ 上述复审决定所确定的申请文件。

4. ☐ 本通知书未引用新的对比文件。

☒ 本通知书引用下述对比文件(其编号续前, 并在今后的审查过程中继续沿用):

编号	文件号或名称	公开日期 (或抵触申请的申请日)
2	US6129668A	2000-10-10

5. 审查的结论性意见:

☐ 关于说明书:

- ☐ 申请的内容属于专利法第 5 条规定的不授予专利权的范围。
☐ 说明书不符合专利法第 26 条第 3 款的规定。
☐ 说明书的修改不符合专利法第 33 条的规定。
☐ 说明书的撰写不符合实施细则第 18 条的规定。

☒ 关于权利要求书:

- ☐ 权利要求 不具备专利法第 22 条第 2 款规定的新颖性。
☒ 权利要求 1-4 不具备专利法第 22 条第 3 款规定的创造性。
☐ 权利要求 不具备专利法第 22 条第 4 款规定的实用性。
☐ 权利要求 属于专利法第 25 条规定的不授予专利权的范围。
☐ 权利要求 不符合专利法第 26 条第 4 款的规定。
☐ 权利要求 不符合专利法第 31 条第 1 款的规定。
☐ 权利要求 的修改不符合专利法第 33 条的规定。
☐ 权利要求 不符合专利法实施细则第 2 条第 1 款关于发明的定义。



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2002.8



回函请寄: 100088 北京市海淀区前门桥西土城路 6 号 国家知识产权局专利局受理处收
(注: 凡寄给审查员个人的信函不具有法律效力)

申请号 031523862

- ☐ 权利要求 不符合专利法实施细则第 13 条第 1 款的规定。
☐ 权利要求 不符合专利法实施细则第 20 条的规定。
☐ 权利要求 不符合专利法实施细则第 21 条的规定。
☐ 权利要求 不符合专利法实施细则第 22 条的规定。
☐ 权利要求 不符合专利法实施细则第 23 条的规定。

上述结论性意见的具体分析见本通知书的正文部分。

6. 基于上述结论性意见, 审查员认为:

- ☐ 申请人应按照通知书正文部分提出的要求, 对申请文件进行修改。
☐ 申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。
☒ 专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其申请将被驳回。

7. 申请人应注意下述事项:

- (1) 根据专利法第 37 条的规定, 申请人应在收到本通知书之日起的 2 个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。
 (2) 申请人对其申请的修改应符合专利法第 33 条和实施细则第 51 条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。
 (3) 申请人的意见陈述书和/或修改文本应邮寄或递交国家知识产权局专利局受理处, 凡未邮寄或递交给受理处的文件不具备法律效力。
 (4) 未经预约, 申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。

8. 本通知书正文部分共有 2 页, 并附有下列附件:

- ☒ 引用的对比文件的复印件共 1 份 11 页。

审查员: 周东莉 (5509)

2006年4月18日



审查部门 光电技术审查部

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2002.8



回函请寄: 100088 北京市海淀区卧佛寺西路6号 国家知识产权局专利局受理处收
 (注: 凡寄给审查员个人的信函不具有法律效力)

Text of the Second Office Action

The applicant submitted Remarks and amended application document on May 8, 2005. After further examination, the examiner comes to the following comments.

1. Claim 1 has no inventiveness as set forth in Article 22.3 of the Chinese Patent Law.

Reference 1 discloses an active electrode for measuring bio-signals of a human, and specifically reveals the following features (see Line 20 of Column 5 to Line 28 of Column 6 in the description, and Figures 1 and 2, of Reference 1): the electrode comprising a plurality of electrode sections (2, 3, 4) which are in contact with the skin of a human body for measurement; a preamplifier (6) which is electrically connected with each electrode section via a wire.

Claim 1 is distinguished from Reference 1 in that: the preamplifier section is made of flexible material and can be transformed flexibly. However, such a difference has been disclosed by Reference 2 (US6129666A) (see Lines 12-35 of Column 5 of Reference 2), and the flexible amplifier 122 in Reference 2 is also used for biomedical electrode. Therefore, it is obvious for a person skilled in the art to utilize such a flexible amplifier as the preamplifier when considering the better

flexibility of electrode. It is obvious for a person skilled in the art to obtain the technical solution sought to be protected by Claim 1 by combining Reference 1 with Reference 2. Therefore, Claim 1 has no inventiveness.

2. Claims 2 and 4 have no inventiveness as set forth in Article 22.3 of the Chinese Patent Law.

The additional technical features of Claims 2 and 4 are ordinary technical means in the art. It is obvious for a person skilled in the art to obtain the technical solution of Claim 2 or 4 by combining Reference 1 with Reference 2 and said ordinary technical means in the art. Therefore, if the cited claim has no inventiveness, then Claims 2 and 4 have no inventiveness.

3. Claim 3 has no inventiveness as set forth in Article 22.3 of the Chinese Patent Law.

Claim 3 includes the additional technical feature "said flexible section or said flexible material is comprised of a plurality of layers", which has been disclosed by Reference 1 (see Figures 4, 6, 9, Claim 3, of Reference 1). And the feature "the elastic coefficient of each layer is set according to the movement of the measurement target region" is ordinary technical means in the art. It is obvious for a person skilled in

Appl.No.03152386.2IIE031947

the art to obtain the technical solution of Claim 3 by combining Reference 1 with Reference 2 and said ordinary technical means in the art. Therefore, if the cited claim has no inventiveness, Claim 3 has no inventiveness.

For the reasons above, the independent claims and dependent claims thereof in the present application have no inventiveness, while the specification does not disclose any substantive contents that can be granted a patent right. Therefore, even if the applicant recombines the claims and/or further defines the claims according to the disclosure of the specification, the present application has no prospect to be granted. If the applicant cannot provide sufficient reasons that the present application has inventiveness within the time limit as specified in the Office Action, the present application would be rejected.

第二次审查意见通知书正文

申请号：03152386.2

申请人于2005年5月8日提交了意见陈述书和经过修改的申请文件，审查员在阅读了上述文件后，对本案继续进行审查，再次提出如下审查意见。

1. 权利要求1不具备专利法第22条第3款规定的创造性。

对比文件1公开了一种用于测量人体生物信号的有源电极，并具体公开了以下特征（参见对比文件1说明书第5栏第20行至第6栏第28行及附图1和3）：该电极包括多个与人体皮肤接触以用于进行测量的电极部分（2，3，4），与每个电极部分通过导线连接的前置放大器（6）。

权利要求1与对比文件1的区别在于：前置放大器部分是由柔性材料制成，并可以挠性变形。但该特征已被对比文件2（US6129666A）公开（参见对比文件2第5栏第12—35行），而且对比文件2中的柔性放大器122也是用于生物电极中，本领域技术人员在考虑电极的更佳柔软性时，容易想到采用这种柔性放大器作为前置放大器。在对比文件1的基础上结合对比文件2以得到权利要求1所要求保护的技术方案，对本领域技术人员来说是显而易见的，因此权利要求1不具备创造性。

2. 权利要求2和4不具备专利法第22条第3款规定的创造性。

权利要求2和4的附加技术特征均为本领域的常规选择，在对比文件1的基础上结合对比文件2及本领域的常规选择以得到权利要求2或4的技术方案对本领域技术人员来说是容易想到的，因此当其引用的权利要求不具备创造性时，权利要求2和4也不具备创造性。

3. 权利要求3不具备专利法第22条第3款规定的创造性。

权利要求3的附加技术特征中的“所述柔性部分或者柔性材料由多层构成”也被对比文件1公开（参见对比文件1附图4、6和9，权利要求3），而权利要求3附加技术特征中的“每层的弹性系数根据测量目标区的移动来设定”为本领域的常规选择。在对比文件1的基础上结合对比文件2及本领域的常规选择以得到权利要求3的技术方案对本领域技术人员来说是容易想到的，因此当其引用的权利要求不具备创造性时，权利要求3也不具备创造性。

基于上述理由，本申请的独立权利要求以及从属权利要求都不具备创造性，
同时说明书中也没有记载其他任何可以授予专利权的实质性内容，因而即使申请人
对权利要求进行重新组合和 / 或根据说明书记载的内容作进一步的限定，本申请也
不具备被授予专利权的前景。如果申请人不能在本通知书规定的答复期限内提出表
明本申请具有创造性的充分理由，本申请将被驳回。